

FILE COPY

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :

JEFFERY D. METZGER,  
RESPONDENT :

FINAL DECISION AND ORDER  
95 REB 313

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The parties to this action for the purposes of Wis. Stats. §227.53 are:

Jeffery D. Metzger  
PO Box 44  
Hollandale, WI 53544

Real Estate Board  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Jeffery D. Metzger (D.O.B. 09/06/54) is duly licensed in the state of Wisconsin as a real estate salesperson in the state of Wisconsin (license #32864). This license was first granted on March 16, 1990.
2. Mr. Metzger's latest address on file with the Department of Regulation and Licensing is PO Box 44, Hollandale, WI 53544.
3. On or about September 5, 1995, Mr. Metzger was found guilty on a plea of no contest to felony violation of §161.41(1)(h)1, Wis. Stats (manufacture or delivery of a controlled substance).

True and correct copies of the criminal complaint, plea bargain, and judgment of conviction in this matter are attached to this Order as Exhibit A. Exhibit A accurately reflects the facts and circumstances surrounding Mr. Metzger's conviction, and the Exhibit is incorporated by reference into this Order.

4. In resolution of this matter, Mr. Metzger consents to the entry of the following Conclusions of Law and Order as a reasonable accommodation to allow him an opportunity to continue his real estate career, in light of the facts and circumstances of this case.

#### CONCLUSIONS OF LAW

By the conduct described above, Jeffery D. Metzger is subject to disciplinary action against his license to practice as a real estate salesperson in the state of Wisconsin, pursuant to Wis. Stats. §452.14(3)(k) and Wis. Adm. Code §RL 24.17.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Jeffery D. Metzger shall be LIMITED as follows:

A.

#### **REHABILITATION AND MONITORING**

##### Sobriety

- 1 Respondent shall remain free of prescription drugs and controlled substances not prescribed for valid medical purposes.
- 2 Respondent shall in addition refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or create false positive screening results, or which may interfere with Respondent's treatment and rehabilitation.

##### **Screens for THC and other drugs**

- 3 As a continuing condition of licensure, Respondent must participate in a program of drug screens sufficient to monitor Mr. Metzger for the presence of tetrahydrocannabinols or their derivatives in his blood, hair or urine. The board shall establish a minimum schedule of testing for these substances. [It is anticipated that this screening shall be set at a minimum of one [1] time per month.] Testing shall be performed and results reported in a manner consistent with the requirements set forth in ¶¶6-16, below.
4. The Real Estate Board reserves the right to require at its discretion one or more random drug screens for other controlled substances and/or alcohol in Respondent's urine, blood and/or hair

on a frequency acceptable to the Board. The Board, via its designated agent, may determine an acceptable minimum frequency of screens. If the Board, the physician or therapist supervising his plan of care, or his employer deems that additional blood or urine screens are warranted to assure compliance with the terms of this Order, Respondent shall submit to such additional screens.

5. The Board further reserves the right to require Respondent to submit to a chemical dependency assessment from a health care provider acceptable to the Board, if in its discretion, the Board determines an assessment is warranted.

### **Monitoring arrangements**

- 6 Respondent shall be responsible for obtaining a monitoring facility and reporting system acceptable to the Board, as well as for all costs incurred in conjunction with the monitoring and reporting required and any other expenses associated with compliance with this Order. The Board finds that the respondent's current monitoring through Iowa County Probation and Parole is acceptable.
- 7 The Real Estate Board or its designee may at any time request a random monitored urine, blood or hair specimen from Respondent by directing the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement to contact Respondent and request Respondent provide a specimen. Random specimen requests shall be random with respect to the hour of the day and the day of the week.
- 8 All requested urine, blood or hair specimens shall be provided by Respondent within five (5) hours of the request for the specimen. All urine specimen collections shall be a split sample accomplished by dividing urine from a single void into two specimen bottles. The total volume of the split sample shall be at least 45 ml. of urine. All split sample urine specimens, blood specimens and hair specimens shall be collected, monitored and chain of custody maintained in conformity with the collection, monitoring and chain of custody procedures set forth in 49 CFR Part 40. Urine specimen collections shall be by direct observation if:
  - a. The Respondent must provide an additional specimen because Respondent's initial specimen was outside of the normal temperature range (32.5 - 37.7°C/90.5 - 99.8°F) and he refuses to have an oral body temperature measurement; or he does provide an oral body temperature measurement, and the reading varies by more than 1°C/1.8°F from the temperature of the urine specimen;
  - b. Respondent's last provided specimen was determined by the laboratory to have a specific gravity of less than 1.003 and creatinine concentration below 0.2 g/l;
  - c. The collection site person observes Respondent acting in such a manner to provide reason to believe that Respondent may have attempted or may attempt to substitute or adulterate the specimen. The collection site person, if he or he believes that the initial

urine specimen may have been adulterated or a substitution made, shall direct Respondent to provide an additional observed urine specimen;

d. The last provided specimen resulted in a positive or suspected positive test result for the presence of controlled substances; or

e. The Real Estate Board (or any member of the Board), the Department Monitor, or Respondent's supervising health care provider directs that the urine specimen collection be by direct observation.

If either of the above conditions (a) or (c) requires collection of an additional observed urine specimen, the collection of the subsequent specimen shall be accomplished within the required five (5) hours of the request for the initial specimen; the collection of the initial specimen shall not satisfy the requirement that the urine specimen be collected within five (5) hours of the request for the initial specimen.

- 9 The monitoring facility utilized by Respondent shall at all times utilize a United States Department of Health and Human Services certified laboratory for the analysis of all specimens collected from Respondent.
- 10 The monitoring facility utilized by Respondent shall utilize only those urine, blood and hair specimen collection sites for collection of Respondent's urine, blood or hair specimens as comply with the United States Department of Transportation collection and chain of custody procedures set forth in 49 CFR Part 40.
- 11 All entities involved in processing Respondent's drug screens shall maintain a complete and fully documented chain of custody for each urine, blood or hair specimen collected from Respondent.
- 12 Every urine specimen collected from Respondent shall be analyzed at the time of collection for tampering by measurement of the temperature of the specimen and the oral temperature of Respondent. Every urine specimen collected from Respondent shall be further analyzed at the laboratory for tampering by measuring the creatinine concentration and the specific gravity of the specimen. The laboratory may at its discretion or at the direction of a supervising health care provider or the Real Estate Board or any member thereof conduct additional tests to evaluate the urine specimen for tampering including, but not limited to, pH, color and odor.
- 13 Unless otherwise directed by the Board, every urine, blood or hair specimen collected from Respondent shall be analyzed for THC.

The Real Estate Board or its designated agent may at any time direct that screens for additional substances and their metabolites be conducted by scientific methods and instruments appropriate to detect the presence of these substances.

The laboratory shall conduct confirmatory tests of positive or suspected positive test results by appropriate scientific methods and instruments including, but not limited to, gas chromatography and mass spectrometry.

- 14 All urine, blood or hair specimens remaining after testing shall be maintained in a manner necessary to preserve the integrity of the specimens for at least seven (7) days; and all positive or suspected positive urine, blood or hair specimens remaining after testing shall be so maintained for a period of at least one (1) year. The monitoring facility or the Real Estate Board or any member thereof may direct that the urine, blood or hair specimens be maintained for a longer period of time.
- 15 For the purpose of further actions affecting Respondent's license under this Order, it shall be presumed that all confirmed positive reports are valid. Respondent shall have the burden of proof to establish that the positive report was erroneous.
- 16 If any urine, blood or hair specimen is positive or suspected positive for any substance which would constitute a violation of this Order, Respondent shall promptly submit to additional tests or examinations as the Monitoring Facility or Board shall determine to be appropriate to clarify or confirm the positive or suspected positive urine, blood or hair specimen test results.

#### **Department monitor**

- 17 The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor  
Department of Regulation Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935  
FAX (608) 266-2264  
TEL. (608) 267-7139

#### **Releases**

- 18 Respondent shall provide and keep on file with all treatment facilities and personnel, laboratories, and collections sites current releases which comply with state and federal laws authorizing release of all of Respondent's urine, blood and hair specimen screen results and his medical and treatment records and reports. In addition, these releases shall (if applicable) permit his treating physicians and therapists to disclose and discuss the progress of his treatment and rehabilitation with the Real Estate Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the

Real Estate Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

## **TREATMENT**

### **Treatment Required**

- 19 If an assessment is performed pursuant to this Order and it reveals a need for continued treatment, Respondent shall continue successful participation in all components of a drug and alcohol treatment program at a treatment facility acceptable to the Board. As a part of treatment, Respondent must attend therapy on a schedule as recommended by his supervising health care provider; attendance however, shall be required at least four (4) times per month. In addition, Respondent must attend Alcoholics or Narcotics Anonymous or another self-help group acceptable to the Board at least one (1) time per week.
- 20 If diagnosed as chemically dependent, Respondent shall maintain sobriety and remain free of prescription drugs and controlled substances not prescribed for valid medical purposes and alcohol.

### **Required reporting**

- 21 Respondent's supervising health care provider (if applicable) and Monitoring Facility shall report **immediately** to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of Respondent to provide a urine, blood or hair specimen within five (5) hours from the time it was requested; or of any inability to locate Respondent to request a specimen. The laboratory shall **immediately** report all urine specimens suspected to have been tampered with and all urine, blood or hair specimens which are positive or suspected positive for controlled substances or alcohol to the Department Monitor, and to the supervising health care provider.
- 22 The laboratory shall within 48 hours of completion of each drug or alcohol analysis mail the report from **all** specimens requested of Respondent under this Order to the Department Monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances, their metabolites or alcohol). Each report shall state the date and time the specimen was requested; the date and time the specimen was collected; the results of the tests performed to detect tampering; and the results of the laboratory analysis for the presence of controlled substances and alcohol.
- 23 The supervising health care provider (if applicable) shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in his drug and alcohol treatment program, evaluate the Respondent's level of participation at NA/AA meetings, and

summarize the results of the urine, blood or hair specimen analyses. The supervising health care provider shall report **immediately** to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)267-7139] any violation or suspected violation of the Real Estate Board's Final Decision and Order.

- 24 The Monitoring Facility shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall summarize the results of the urine, blood or hair specimen analyses. The Monitoring Facility shall report **immediately** to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)267-7139] any violation or suspected violation of the Real Estate Board's Final Decision and Order.

#### **Reporting by Respondent**

- 25 Respondent shall be responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including any failures of a supervising health care provider, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

#### **Facility approval**

- 26 If the Real Estate Board determines that the supervising health care provider, treatment facility, monitoring facility, laboratory or collection sites have failed to satisfy the terms and conditions of this Final Decision and Order, the Board may, at its sole discretion, direct that Respondent continue his treatment and rehabilitation program under the direction of another supervising health care provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Final Decision and Order.

### **C.**

#### **SCOPE OF PRACTICE: LIMITATIONS AND CONDITIONS**

##### **Disclosure**

- 27 Respondent shall provide any current or prospective real estate employers with a copy of this Final Decision and Order immediately upon its issuance and upon any change of employment during the time in which the Order remains in effect.

##### **Required reporting**

- 26 Respondent shall arrange for quarterly reports from his supervising broker(s) reporting the terms and conditions of his employment and evaluating his work performance. These reports shall be submitted to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a schedule as directed by the Department Monitor. An employer shall report **immediately** to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone no. (608)267-7139] any violation or suspected violation of the Real Estate Board's Final Decision and Order.
- 27 Respondent shall report to the Board any change in employment status, change of residence address or phone number, within five (5) days of any such change.

**Practice restrictions**

- 28 Respondent shall comply with all terms of probation and/or parole imposed upon him, and make arrangements with his probation/parole officer to notify the Real Estate Board immediately of any violation of probation/parole terms. Respondent shall provide the Board with current releases complying with state and federal laws, authorizing release and access to his probation and parole records.
- 31 If Respondent's supervising health care provider or Respondent's probation officer recommends work restrictions in the field of real estate in addition to the restrictions included in this order, Respondent shall restrict his practice in accordance with such recommendations.

**D.**

**PETITIONS FOR MODIFICATION OF TERMS**

Respondent may petition the Board at any time following two (2) years from the effective date of this Order to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

**E.**

**SUMMARY SUSPENSION**

**Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license.**

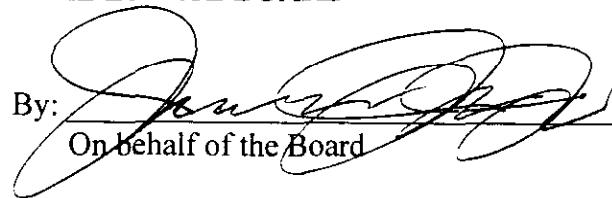
**F.**

**EFFECTIVE DATE OF ORDER**

This Order shall become effective upon the date of its signing.



REAL ESTATE BOARD

By:   
On behalf of the Board

2/27/97  
Date

EXHIBIT A

STATE OF WISCONSIN

CIRCUIT COURT

IOWA COUNTY

THE STATE OF WISCONSIN,  
Plaintiff,

CRIMINAL  
COMPLAINT

vs.

94 CF 59

Jeffrey D. Metzger,  
d.o.b. 09/06/54,

COPY

Defendant.

STATE OF WISCONSIN)

) ss.

COUNTY OF IOWA ) Felipe Banuelos Complainant,  
being duly sworn, complains in writing under oath

that Jeffrey D. Metzger DEFENDANT, did on or about the 14th day  
of December, 19 94, in the Town of  
Moscow, Iowa County, State of Wisconsin,

FOR A FIRST COUNT: FELONIOUSLY and intentionally possess, with the intent to deliver, a non-narcotic controlled substance as classified in Schedule I of the Uniform Controlled Substance Act; to-wit: did possess more than 2500 grams, specifically 3370 grams, of marijuana containing tetrahydrocannabinol as classified in Section 161.14(4)(t), contrary to Section 161.41(lm)(h) of the Wisconsin Statutes.

PENALTY: a fine not less than \$1,000.00 nor more than \$100,000.00 and may be imprisoned for not less than one (1) year nor more than ten (10) years, pursuant to Section 161.41(lm)(h)3 of the Wisconsin Statutes.

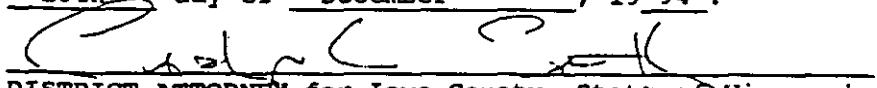
AND FOR A SECOND COUNT: FELONIOUSLY possess a Schedule I controlled substance, i.e. marijuana containing tetrahydrocannabinol, that did not bear evidence that the required tax had been paid; to-wit: did possess more than 42.5 grams of marijuana that did not bear a Wisconsin Department of Revenue Controlled Substance Tax Stamp, contrary to Section 139.95(2) of the Wisconsin Statutes.

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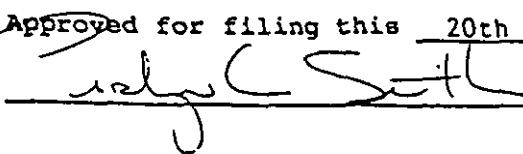
  
Complainant

Subscribed and sworn to before me this

20th day of December, 19 94.

  
DISTRICT ATTORNEY for Iowa County, State of Wisconsin

Approved for filing this 20th day of December, 19 94.

  
District Attorney, Iowa County, Wisconsin

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PENALTY: a fine not more than \$10,000.00 and may be imprisoned for not more than five (5) years, or both, pursuant to Section 139.95(2) of the Wisconsin Statutes.

Complainant is a Special Agent employed by the Wisconsin Department of Justice, Division of Narcotics Enforcement and in said capacity has read and reviewed the law enforcement reports prepared by St. Croix Sheriff Department Investigator David Hake and fellow agents Timothy J. Schultz and Brad R. Montgomery.

Complainant states on or about December 12, 1994 he was contacted by fellow Special Agent Timothy J. Schultz and advised that on December 11, 1994 a routine traffic stop was executed at Mile Post 28 on Interstate 94 near the Glenwood City Exit in St. Croix County by the Wisconsin State Patrol of a vehicle driven by Ronald D. Watrud. Complainant states he was advised Mr. Watrud consented to a search of his automobile by area law enforcement personnel and on December 11, 1994 approximately one-half pound of marijuana was located in the Watrud vehicle during said search. Complainant further states he was informed that on December 11, 1994 St. Croix Sheriff's Department Investigator David Hake examined the alleged marijuana seized from Watrud's vehicle and later on said date removed a green leafy vegetable substance from the alleged half pound of marijuana and conducted a Duquenois-Levine field test on said substance. Complainant states on information and belief that the green leafy vegetable substance sample tested by Investigator Hake tested positive for the presence of tetrahydrocannabinol (THC).

Complainant further states on, about and between December 11, 1994 and December 12, 1994 Special Agent Schultz conducted an interview with Ronald D. Watrud and was advised by Mr. Watrud that on, about and between December 10, 1994 and December 11, 1994 Watrud drove his automobile to the "Blanchardville," Wisconsin area for the purpose of purchasing marijuana. Special Agent Schultz informed complainant that a confidential informant told him that for approximately the past six (6) years Ronald D. Watrud has been travelling to a residence near Blanchardville, Wisconsin to purchase marijuana from an individual he identified as being "Jeff." Complainant states on December 11, 1994 Ronald D. Watrud told Special Agent Schultz the previous day he telephoned the residence of "Jeff" and informed said individual he was interested in immediately obtaining a quantity of marijuana. Mr. Watrud told Special Agent Schultz that "Jeff" agreed to "front" him a quantity of marijuana and Mr. Watrud was to travel to the residence of "Jeff" on December 11, 1994 and receive the marijuana and pay for said controlled substance at a later date. Mr. Watrud informed Special Agent Schultz on December 11, 1994 he drove his automobile to the residence of "Jeff" and walked to a trash container located outside of the residence and removed a brown paper bag containing a plastic bag, which contained marijuana, from inside said container.

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Complainant further states on December 11, 1994 Ronald D. Watrud told Special Agent Schultz in November 1994 he travelled to the residence of "Jeff" on two (2) separate occasions. Mr. Watrud told Special Agent Schultz his initial November 1994 trip to the residence of "Jeff" consisted of him arriving at said residence where he walked to a trash container located outside the residence and retrieved marijuana from inside said container. Mr. Watrud told Special Agent Schultz he removed approximately a half pound of marijuana, which was packaged in a plastic cellophane bag, from a trash container. Mr. Watrud further told Special Agent Schultz he returned to the residence of "Jeff" later in November 1994 and left \$1,500.00 in U.S. currency in the same trash container from which he earlier retrieved marijuana. Complainant states Watrud informed Special Agent Schultz that on numerous occasions during the past six (6) years he has entered the residence of "Jeff" and has smoked marijuana with "Jeff" in said home. Mr. Watrud further told Special Agent Schultz that on several occasions while within the residence occupied by "Jeff" he observed marijuana and paraphernalia related to the use of marijuana.

Complainant states Ronald D. Watrud further told Special Agent Schultz the marijuana he received from "Jeff" was the product of a marijuana grow operation located in or near the residence of "Jeff" and Watrud believed the marijuana was the product of a "cloning operation" which involves growing marijuana plants inside a structure and said plants are grown continuously throughout the year with perpetual harvest of the controlled substance.

Complainant states on December 11, 1994 Special Agent Schultz spoke with Cynthia Watrud, the wife of Ronald D. Watrud, and she informed him that the individual her husband knew to be "Jeff" was a subject by the name of Jeffrey Metzger. Special Agent Schultz informed complainant that Mrs. Watrud told him that she had travelled to the residence of Jeffrey Metzger and she believed Metzger's home to be a former cheese factory. Complainant states he has received and reviewed the Wisconsin Department of Transportation driver's license record of Jeffrey D. Metzger and said record indicates that Metzger's date of birth is September 6, 1954 and he resides at 1059 River Fork Road, Hollandale, Town of Moscow, Wisconsin.

Complainant states at approximately 7:30 a.m. on December 14, 1994 he accompanied other law enforcement agents to what appears to be a former cheese factory and now serves as a residence located at 1059 River Fork Road, in the Town of Moscow, Iowa County, Wisconsin. Complainant states at said location he made contact with a subject who verbally identified himself as being Jeffrey D. Metzger, d.o.b. 09/06/54. Complainant states he informed Metzger a warrant to search the premises had been issued by Iowa County Circuit Court Judge James P. Fiedler and he presented Metzger with a copy of the document and proceeded to enter the residence.

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State of Wisconsin, Plaintiff,  
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Complainant states he and other law enforcement personnel examined the interior of Metzger's home and observed the following items in the lower level of said residence:

A. Items Located in Basement of Residence

1. One (1) brown paper bag containing stems and leafy plant material hanging from wall;
2. Seven (7) plastic bags containing stems and leafy plant material;
3. Three (3) boxes containing stems and leafy plant material; and
4. Assorted paraphernalia, including smoking pipe, scale timers, sifter, thermometer and a box of gallon size zip-lock bags.

B. Items Located in Plastic Lined Basement Room

1. Numerous plastic trays, styrofoam cups and dirt;
2. One (1) styrofoam cooler containing starter soil pods, stems and leafy plant material; and
3. Three (3) timers and twelve (12) rectangle buckets containing soil and lids.

C. Items Located in Other Basement Room

1. One (1) Honda ES6500 Electric Generator;
2. Fertilizer stored in plastic bags;
3. Five (5) water pumps; and
4. Two (2) folding tables, a timer and six (6) grow mediums.

Complainant further states he examined the living area of the Metzger residence and numerous plastic planting trays, styrofoam cups and plastic bin/buckets were located throughout the home. Complainant states a search of the kitchen produced a "Bong" smoking pipe, a glass jar containing a green leafy plant material and two (2) cans which each contained plant seeds. Complainant further states \$3,380.00 in U. S. currency was located in a cupboard and assorted drug related paraphernalia, including HIGHTIMES

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magazines, was scattered about the residence. Complainant states the leafy plant material located in the basement and living area of the Metzger residence was seized as evidence and transported to the Wisconsin Department of Justice for purposes of analysis and testing.

Complainant states he has read and reviewed the law enforcement reports prepared by Special Agent Brad R. Montgomery wherein Special Agent Montgomery states on December 15, 1994 he conducted a Duquenois-Levine Field Test on several samples of the leafy stem and plant material located in paper and plastic bags, boxes and a glass jar found in the basement and living area of the Metzger residence. Special Agent Montgomery states the records pertaining to said tests indicate the leafy stem and plant material tested reacted positively for the presence of tetrahydrocannabinol, the active ingredient found in marijuana, which complainant knows to be a Schedule I controlled substance. Montgomery further states on December 15, 1994 he weighed the plant material contained in the seven (7) plastic bags removed from the basement and the total weight of the plant material was 3370 grams.

Montgomery further states he is familiar with the appearance of the Wisconsin Drug Tax Stamp issued by the Wisconsin Department of Revenue and knows that said stamp must be affixed to any controlled substance, i.e. marijuana, exceeding the weight of 42.5 grams. Montgomery states when he weighed the plastic bags removed from the basement of the Metzger basement on December 14, 1994 he inspected each such bag and did not observe or recognize any Wisconsin drug tax stamps affixed to said bags.

Complainant believes the information provided by Special Agents Timothy J. Schultz, Brad R. Montgomery and St. Croix County Sheriff's Department Investigator David Hake to be truthful and reliable as said individuals are law enforcement officers and have on prior occasions provided information to complainant and other law enforcement agencies that has been substantiated and confirmed to be accurate. Complainant believes the information provided by Cynthia Watrud to be reliable as said individual is a citizen complainant and eyewitness to the above-described incidents. Complainant further believes the information provided by Ronald D. Watrud is trustworthy as said information was voluntarily provided and made against his penal interest after he was advised of his legal rights.

Complainant further states he has had formal training in the investigation of drug trafficking and is familiar with the street names of various drugs in the Iowa County area, including marijuana, and is familiar with methods that are commonly used by drug dealers to package and prepare controlled substances for sale in the Iowa County area. Complainant further states based on his training and experience that he knows drug dealers also commonly use such items as plastic and cellophane bags and scales in the weighing and packaging of marijuana for sale.

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STATE OF WISCONSIN,

Plaintiff,

COPY

Plea Agreement

vs.

JEFFREY D. METZGER

Case No. 94-CF-59

Defendant.

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The State of Wisconsin by Carolyn Smith, Iowa County District Attorney and the defendant, Jeffrey D. Metzger, the defendant, with the consent of his attorney Robert S. Duxstad, hereby enter into the following plea agreement concerning the above-entitled matter.

1. Count two of the information charging Mr. Metzger with violation of the drug tax stamp law would be dismissed.
2. Count one of the information would be amended to a violation of felony possession with intent to deliver marijuana in the amount of 500 grams or less, contrary to Wisconsin Statutes Sections 161.14(4)(t) and 161.41(1)(h)(1) of the Wisconsin Statutes. The penalty for this offense is a fine of not less than \$500.00, nor more than \$25,000.00 and imprisonment for not more than three years. In addition, the information would be amended to indicate that the amount of marijuana would be specifically 500 grams. To the amended charge, the defendant would plead no contest on the date currently scheduled for a trial in this matter, September 5, 1995.
3. The parties would have a joint sentencing recommendation as follows:
  - a. Sentence is to be withheld and the defendant would be placed on probation for a period of three years with following conditions:
    - i. The defendant would be required to undergo an AODA assessment and comply with any treatment recommendations.
    - ii. The defendant would not possess or use any controlled substances without a valid prescription.
    - iii. The defendant would receive a 60 day sentence as a condition of probation. Said sentence would be stayed for a period of 33 months to allow the defendant to complete 480 hours of community service during the first 33 months of the probation term. This would be a credit of 1 day for every 8 hours of community service worked. In the event, the defendant fails to complete 480 hours of community service, he would then serve 1 day in jail for every

8 hours of community service not worked. The defendant will complete at least one-fourth of his community service working with the Iowa County D.A.R.E. program. The defendant through his counsel shall arrange for the community service program prior to sentencing.

iv. The defendant would pay a fine of \$1,000.00 plus costs which totals \$1,930.00. That amount would be paid from monies which were confiscated from Mr. Metzger's residence on December 14, 1994.

v. Neither party will recommend a suspension or revocation of the defendant's Wisconsin driving privileges.

vi. The defendant shall cooperate in providing truthful testimony concerning Steve Nelson and Roger Martin in the John Doe proceeding presently pending in Green and LaFayette County (the next scheduled hearing date is September 1, 1995) and any subsequent proceedings concerning Steve Nelson and Roger Martin, upon a grant of immunity in those proceedings. Upon the signing of this agreement by the Iowa County District Attorney and the presentation of non-prosecution agreements from the Green County District Attorney and LaFayette County District Attorney, the defendant will be debriefed prior to September 1, 1995, with agents selected by the Green County District Attorney and Iowa County District Attorney.

4. The balance of the monies which were confiscated in the search warrant and the generator would be forfeited either to the federal authorities or the drug enforcement unit which executed the search.

5. Neither party will request a presentence investigation report.

6. It is further understood that no other charges regarding any deliveries to Ron Watrud prior to December 14, 1995 or other charges which could have been charged based upon the evidence seized in the search warrant will be issued at a subsequent date by the Iowa County District Attorney's office.

7. No referral will be made by the Iowa County District Attorney's office or law enforcement officials to the Wisconsin Department of Revenue recommending initiation of a civil action regarding the failure to purchase drug tax stamps for the payment of said taxes and potential penalties, nor will there be any referral to the I.R.S. or Department of Revenue concerning failure to report income derived from the sale of controlled substances.

8. The Iowa County District Attorney represents that the U.S. Attorney's office has not contacted the Iowa County District Attorney's office for the initiation or referral of any federal charges against Mr. Metzger, and that in fact, the U.S. Attorney's office has indicated to the Iowa County District Attorney's office that they do not intend to pursue federal prosecution of Jeffrey Metzger for any crimes known to date. Further, the Iowa County District Attorney's office agrees not to make a referral to the federal authorities for a further prosecution related to the information it has to date.

9. Upon the acceptance of this plea agreement by the court and the imposition of the



sentence as outlined above, the defendant agrees to waive any right to seek postconviction relief or requests a modification of sentence under 973.19 Wis. Stats.

10. The defendant further represents as follows:

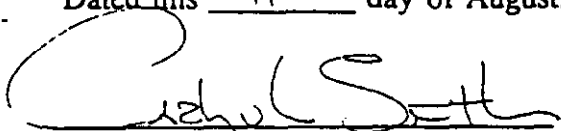
- a. I am forty years old.
- b. I have completed the twelve grade in school.
- c. I have never been committed to a mental institution as mentally ill or incompetent, and I am not now suffering from any mental illness.
- d. I am not now under the influence of any drug or alcohol and I am in possession of all my faculties and I understand the court proceedings against me.
- e. I understand that by pleading no contest I will be giving up the following constitutional rights:
  - i. I will be giving up my right to remain silent;
  - ii. I will be giving up my right to confront, cross-examine and ask questions of the State's witnesses;
  - iii. I will be giving up my right to call witnesses and make them come to court and testify for me;
  - iv. I will be giving up my right to have my case decided by twelve people sitting as a jury; I understand that all twelve of those people would have to agree in order to reach a verdict in my case;
  - v. I will be giving up my right to make the State of Wisconsin prove me guilty by evidence beyond a reasonable doubt.
- f. I GIVE UP EACH OF THESE CONSTITUTIONAL RIGHTS AND WILL PLEAD NO CONTEST TO COUNT ONE OF THE AMENDED INFORMATION.
  - i. No one has made any threats against me to get me to give up these rights and plead no contest to the amended charge against me.
  - ii. No one has made any promises to me outside of any plea bargain in this case to get me to give up these rights and plead no contest.
  - iii. I understand that the Judge is not bound to follow any plea bargain or any

recommendation made by the District Attorney. I understand that the Judge is free to sentence me to the maximum penalty for the offense.

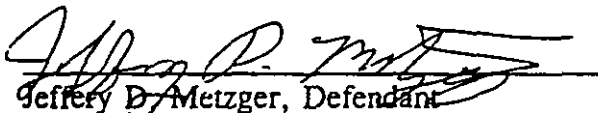
- g. I have discussed my case and all matters mentioned above with my attorney, Robert S. Duxstad. I am satisfied with the professional services and the representation I have received from my attorney.

11. The plea agreement shall be binding on the parties upon the signing thereof.

Dated this 11<sup>th</sup> day of August, 1995.



Carolyn Smith,  
Iowa County District Attorney



Jeffery D. Metzger, Defendant



Robert S. Duxstad, Attorney for the  
Defendant

COPY

State vs Jeffrey D. Metzger Circuit Court Iowa County. JUDGMENT OF CONVICTION

HOLLANDALE

Date of Birth: 09-06-1954

FILED  
SEP 05 1995

Sentence Withheld, Probation Ordered

Case No.: 94CF000059

The ☒ Court ☐ Jury found the defendant guilty of the following crime(s):

Ct.	Crime(s)	Stat. Violated	Plea	Fel. or Misd.	Date(s) Crime Committed
1	Manufacture/Deliver THC (<=500g)	161.41(1)(h)	1 No Contest	FU	12-14-1994

IT IS ADJUDGED that the defendant is convicted on 09-05-1995 as found guilty and is sentenced as follows:

Ct.	Sent. Date	Sentence	Length	Concurrent with/Consecutive to/Comments	Agency
	09-05-1995	Withheld, Probation Ordered	3 YR		DOC

## Conditions of Sentence/Probation

## Obligations: (Total amounts only)

Fine	Court Costs	Attorney Fees	Restitution	Other	Mandatory Victim/Witness Surcharge
1,840.00 PAID	20.00 PAID		1,713.00 PAID		70.00 PAID

## Conditions

Ct.	Condition Jail Time	Length	Agency	Begin Date	Begin Time	Comments
		60 DA				Stayed for 33 months. Defendant to receive credit for one day of jail time for each 8 hours of community service performed.
	Community Service	480 HR				1/4 of time to be spent in DARE programs.

## Miscellaneous Conditions:

Ct.	Condition Prohibitions	Comments
		Defendant not to possess or use controlled substances.
	Other	Defendant to undergo AODA and to follow recommendations. Defendant to cooperate in the matters of Steve Nelson and Roger Martin.

ALL FINANCIAL OBLIGATIONS PAID ON 9/5/95

State vs Jeffrey D. Metzger

## JUDGMENT OF CONVICTION

Date of Birth: 09-06-1954

Sentence Withheld, Probation Ordered

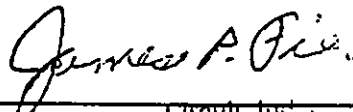
Case No.: 94CF000059

IT IS ADJUDGED that 0 days sentence credit are due pursuant to § 973.155 Wisconsin Statutes.

IT IS ORDERED that the Sheriff execute this sentence.

BY THE COURT:

James P. Fiedler, Judge  
Carolyn L. Smith, District Attorney  
Robert S. Duxstad, Defense Attorney



Circuit Court Judge/Clerk/Deputy Clerk

9/5/95

Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST  
JEFFERY D. METZGER,  
RESPONDENT

STIPULATION  
95 REB 313

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It is hereby stipulated between Jeffery D. Metzger, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Mr Metzger's licensure by the Division of Enforcement. Mr. Metzger consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Metzger understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and the Americans with Disabilities Act of 1990.

3. Mr. Metzger is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

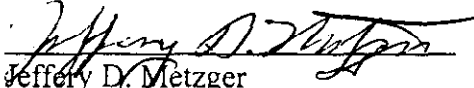
4. Mr. Metzger agrees to the adoption of the attached Final Decision and Order by the Real Estate Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

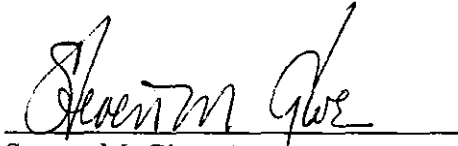
6. Attached to this Stipulation is the current licensure card of Jeffery D. Metzger. If the Board accepts the Stipulation, Mr. Metzger's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Mr. Metzger shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Real Estate Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The Division of Enforcement joins Mr. Metzger in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Jeffery D. Metzger

12/17/96  
Date

  
Steven M. Glee, Attorney  
Division of Enforcement

2/10/97  
Date

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE REAL ESTATE BOARD

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In the Matter of the Disciplinary Proceedings Against

Jeffery D. Metzger,

AFFIDAVIT OF MAILING

Respondent.


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STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

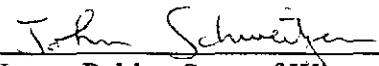
1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On March 3, 1997, I served the Final Decision and Order dated February 27, 1997 upon the Respondent Jeffery D. Metzger by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 374 040.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Jeffery D. Metzger  
P.O. Box 44  
Hollandale WI 53544

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 3rd day of March, 1997.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

March 3, 1997

### **1. REHEARING**

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### **2. JUDICIAL REVIEW.**

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)